

HIPAA

Privacy 1 - Notice, Authorization, Rights, Policy & Procedure

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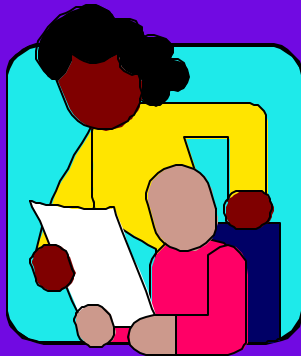
HIPAA Privacy 1

- Notice
- Authorizations
- Patient Rights
- Policies and Procedures



Privacy “Right To Notice” Intent

- Provide individuals knowledge how their Protected Health Information (PHI) will be used and disclosed by Covered Entity (CE)



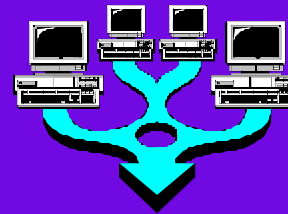
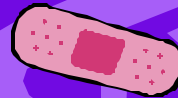
Right to Notice For Individual

- Covered entities “CE” must disclose
 - Use and disclosure protected health information
 - Individuals rights to that information



CE Required To Give Notice

- Covered health care providers
- Health plans
- Certain group health plans
- Health care clearinghouses



Required Elements - Plain Language

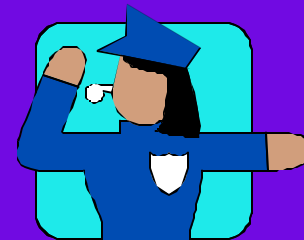
- Plain language
 - may be ethnic in language
 - may be video
 - no formatting recommended



Required Elements - Header

- Required header

- “THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY”



Required Elements - Uses and Disclosures

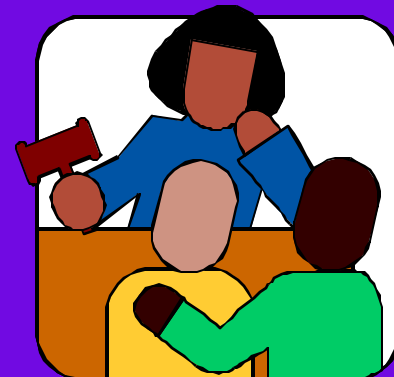
- All uses and disclosures without ‘authorization’
 - including subject to the consent requirements
 - only those permitted under more stringent law
- Separately describe each permitted use
 - sufficient detail to alert individual of uses
 - examples of treatment, payment,

Required Elements - Uses and Disclosures

- Notice regarding individual contact
 - activities required to be listed in Notice:
 - appointment reminders
 - treatment alternatives
 - health related benefits and services
 - soliciting funds to benefit the CE

Required Elements - Individual Rights

- Notice must describe
 - individuals rights
 - how individual may exercise those rights



Required Elements - Individual Rights

- Right to request restrictions on use
 - statement that the CE not required to agree with restriction
- Right to receive confidential communications of PHI
- Right to inspect and copy PHI

Required Elements - Individual Rights



- Right to amend PHI
- Right to an accounting of PHI disclosures
- Right to obtain a paper copy for any electronic notice

Required Elements - Covered Entities Duties

- Must state in the notice that they are required by law
 - to maintain the privacy of PHI
 - to provide a notice of their legal duties and practices
 - to abide by terms of notice *currently* in effect

Required Elements - Covered Entities Duties

- If CE wishes

- to change practice and
- apply the revised practices to previously obtained PHI
- *must make statement to that effect in notice*
- describe how revised notice will be implemented

Required Elements Complaints

- Notice must state

- how a complaint can be presented if it is believed that privacy rights have been violated
- complaint may be filed with the Secretary
- individual will not suffer retaliation for filing complaint



Required Elements Contact

- Notice must identify
 - Point of contact
 - additional information can be obtained





Required Element Effective Date

- Notice must include date notice went into effect
 - effective date cannot be earlier than date notice was printed or published
 - may wish to highlight any material modifications made



Optional Elements

- Any description regarding more restrictive, more limited uses and disclosures
 - i.e. emphasize the even though law permits
 - CE will not disclose PHI unless pressed by legal authorities



Revisions To Notice

- CE required to adhere to notice currently in effect
- Must promptly revise notice regarding changes in practice to:
 - uses and disclosures
 - individual's rights
 - CE legal duties

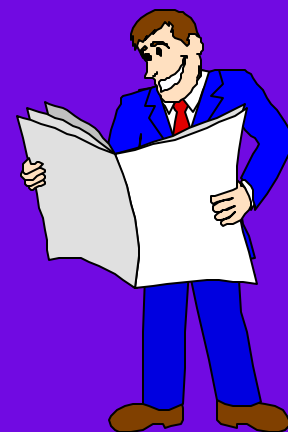


Revisions To Notice

- **CE must also revise its P&P**
 - P&P cannot be changed until effective date of notice
- **CE must include in notice**
 - change in practices to include existing PHI

Provision Of Notice

- CE must provide notice upon request of any person
 - requestor need not be covered individual



Provision Of Notice Health Plans

- Notice must be distributed by:
 - compliance date for existing enrollees
 - date of enrollment
 - after enrollment, 60 days after material change
 - no less than every 3 years about
 - availability of notice
 - how to obtain copy



Provision Of Notice Health Plans

- Single notice may be sent to family of insured
- Notice must be relevant to individual
 - multiple group plans

Provision Of Notice Covered Providers

- Covered providers with direct treatment must:
 - provide notice as of first service after compliance date

Provision Of Notice Covered Providers

- May satisfy requirement by:
 - sending notice to all patients at once
 - giving notice to each patient as seen or contacted electronically
 - or by combination of above

Provision Of Notice Covered Providers

- Covered providers with physical delivery site must:
 - prominently post the notice
 - make notice available on site (for individual to take)
 - promptly post all revisions and make available on site

Provision Of Notice Covered Providers

- Provider may distribute electronically, if:
 - individual agrees to receiving materials electronically
 - individual has not withdrawn their agreement
 - in case of knowledge that electronic transmission failed, a paper copy is provided

Provision Of Notice Covered Providers

- Individuals receiving an electronic notice retain the right
 - to receive a paper notice
 - right must be described in the notice

Provision Of Notice Covered Providers

- Providers with indirect treatment
 - only required to produce the notice upon request

Joint Notice By Separate Covered Entities

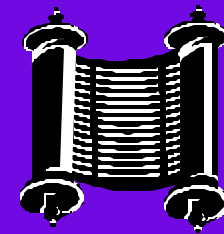
- Allow CE that participate in an organized health care arrangement (OHCA) to:
 - produce a single notice describing combined privacy practices
 - CE under common ownership may designate themselves as a single affiliated CE

Joint Notice By Separate Covered Entities

- CE under common ownership may elect not to be a single covered entity
 - may elect to produce a joint notice if part of OHCA
 - all members must agree to abide by notice
 - notice must reasonable identify all CE
 - sharing PHI to carry out treatment must be specified in notice

Notice Documentation

- CE must retain copies of the notice(s) they issue
 - maintain the P&P in written or electronic form





Notice Documentation

- Retention period
 - six years from the date of its creation
 - or the date when it last was in effect
 - whichever is later

Authorizations

- C.E.'s must have authorization
 - for any purpose not
 - permitted or
 - required by HIPAA





Authorizations

- C.E.'s not required to obtain authorization
 - treatment
 - payment
 - health care operations



Authorizations Required

- Disclosures relating to but not limited to:
 - marketing
 - enrollment /underwriting
 - employment determination
 - fundraising for any entity other than the C.E.
 - psychotherapy notes



Valid Authorizations

- Core elements
- Plain language requirement



Authorizations - Core Elements

1. Information in a specific and meaningful fashion
2. Name authorized to make the requested use
3. Name to whom the C.E. may disclose to
4. An expiration date
5. Statement re: individuals right to revoke
6. Statement that information may be subject to redisclosure
7. Signature of the individual and date
8. Description of individuals representative

Patients Rights



- Request restriction on disclosure
- Access to PHI
- Amendment of PHI
- Accounting of disclosures of PHI

Patient Rights - Restriction

- Must permit individual to request restrictions
 - PTO
 - Other allowed disclosures
 - CE not required to agree
 - If CE agrees, must comply



Patient Rights - Restriction

- Standard - request restriction
- Implementation/termination
- Documentation





Patient Rights - Restriction

- Standard - confidential communication - provider/health plan
 - accommodate reasonable requests to receive PHI by
 - alternative means
 - alternative location



Patient Rights - Restriction

- Standard - confidential communication - provider/health plan
 - C.E. may require in writing
 - C.E. may condition the provision on
 - When appropriate - how payment will be handled
 - Specification of an alternative address or method of contact



Patient Rights - Restriction

- Standard - confidential communication - provider/health plan
 - provider may not require basis for request
 - health plan may require statement
 - that disclosure of information could endanger the individual

Patient Rights - Access

- Right of access
- Unreviewable grounds for denial
- Reviewable grounds for denial
- Review of denial of access



Patient Rights To Amend

- Right to amend as long as C.E. maintains PHI
- Denial of amendment



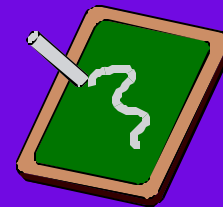
Patient Rights To Accounting

- Right to receive and accounting
 - made by C.E. in six years prior to request date
 - except for PTO
 - to themselves
 - facility directory
 - national security
 - correctional institutions
 - prior to compliance date for C.E.



Policies and Procedures

- C.E. must implement P&P re: PHI
 - to comply with HIPAA
 - be reasonably designed to account for size of organization



Policies and Procedures

- Changes to policies or procedures
 - C.E. must change as necessary to accommodate changes in law
 - changes may include prior PHI if notice was properly given
 - C.E. may make changes to P&P anytime provided
 - they are documented
 - prior P&P is also documented

QUESTIONS AND ANSWERS

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